

FILED ⁰⁸
Clerk
District Court

SEP 29 2006

For The Northern Mariana Islands

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

(Deputy Clerk)

ABELLANOSA, JOANNA,
et al.,

Civil Action No. 05-0010

Plaintiffs,

v.

L&T INTERNATIONAL
CORPORATION,

Defendant.

DECLARATION IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

I, EVA BERNARDINO, hereby declare as follows:

1. I am over the age of eighteen years old, have personal knowledge of the facts set forth herein, am competent to testify as to these facts if called as a witness in a court of law, and if called would testify as stated herein.

2. I am a citizen of the Republic of the Philippines. I was hired by L&T International Corporation as a nonresident contract worker, to work in the position of Hand Packer in 2004.

3. On or about February, 2004, I went to L&T to apply for an advertised job vacancy for hand packers. After filling-up and turning in the application form, I was told that L&T will call me for further information.

4. After about two weeks, an L&T personnel who identified herself as Baby Lopez, called me up for interview. When I reported to L&T, a certain Cory Quing and Amy Tse conducted the interview.

I.
MEDICAL FEES
(Physical Examination Fee
and Health Certificate Fee)

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ORIGINAL

1
2 5. After I passed the interview, Baby Lopez asked me to complete the Consensual
3 Transfer documents and have my employer complete and sign them, which I did.
4 I gave the completed consensual transfer documents to Baby Lopez at the HR
5 office. Baby Lopez then asked for and I gave her my health certificate which she
6 noted had not yet expired. She told me that L&T would use my health certificate
7 from my then employer.
8

9
10 II.
CONTRACT SIGNING

11 6. My first non-resident contract was in 1995. Basically, annually since then, each
12 year, my employers used and had me sign a standard form labor contract provided
13 by DOL. I became familiar with the basic terms of the DOL standard form contract.
14 A copy of such standard form contract is attached as Exhibit "2" to Plaintiffs'
15 Amended Opposition.

16 7. In 2004, when L&T HR staff Baby Lopez handed me their contract form, with
17 only the signature page showing, and insisting that I sign, I had no reason to believe
18 it was not the standard DOL form contract. Prior to signing this L&T contract
19 form and at the time it was presented to me in the HR for signing, I was not given
20 an opportunity to read the contract before signing it. When it was presented to me
21 in the HR office, Baby Lopez just pushed the document through the counter-
22 window with the pages turned back, showing only the signature page, and pointed
23 to where I was to sign it, and said sign, which I did without reading it. There were
24 many other applicants present and waiting in line. The HR staff was rushing me and
25 other applicants by insisting that I and the other applicants I saw present, hurry up

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1 and quickly sign, without delaying the document processing. From the mood and
2 way the HR staff was acting, I was made fearful that if I didn't just sign the signature
3 page as instructed, I would lose the job opportunity especially since none of the
4 other applicants I saw there held up the line by or took time to read the contract
5 document. I observed the HR staff acting the same way with other workers who
6 signed before and after my turn. Neither Baby Lopez, nor any one else, ever
7 showed me my contract document until the time and date they asked me (us) to sign
8 at HR. I was never given a copy of the L&T contract document I signed before my
9 termination on or about May 13, 2004. After my termination, I was surprised when
10 I later learned of some of the terms and conditions in L&T's self-styled contract.
11 Had I known that the L&T's self-styled contract contained terms restricting me
12 from being employed with other competing companies in Saipan and allowing
13 L&T to terminate me at any time as a reduction in force, I would not have
14 agreed to it or signed it.

15
16 III.
PERFORMANCE EVALUATION

17 8. There was no individualized measurement or testing to determine my or each
18 Packer's individual performance or production. The only production measurement
19 or test was done by counting the output (production) from each of the different
20 lines of Packers. There was really no way for me as an individual packer to control
21 or show an increase in the number of products because I was just one individual on
22 the line with many others. In the packing section our work was performed by
23 groups of workers on so-called lines. The packages or items we were assigned to
24 work on often varied from day to day. Our Head Supervisor in the packing section
25

1 was Tse, Oi Ling, who is a Chinese. When I and other Filipino workers tried to ask
2 her questions regarding our work she could not answer nor explain because she does
3 not speak English fluently. (*See* Defendant's Response to Plaintiffs' First Set of
4 Request for Interrogatories No. 49a).

5
6 IV.
7 TERMINATION

8 9. I was employed and worked for L&T International Corporation as a hand packer,
9 from on or about February 2004 to May 13, 2004, when I and other workers in the
10 hand packing section were summoned by the calling of our individual names over
11 the public address system, to report to the human resources (HR) office. I believe
12 and understand we were called in two batches, one about 3:00 p.m., and one about
13 5:00 p.m. (*See* Deposition of Jack Torres, page 97, lines 14-17).

14 10. I did not know why we were being called to come to HR. I thought that we
15 were being called regarding receipt of our anticipated ATM Cards that L&T had
16 previously given us and had us fill out an application for, as they told me and other
17 workers present, to make it easier and more convenient for (us) workers to access
18 and get our anticipated bi-weekly wage payments without having to stand in line
19 waiting for and trying to cash payroll checks. I was made more assured of my
20 continued employment and anticipated pay check by L&T having asked me and
21 other workers to set up these ATM accounts to facilitate our anticipated payroll
22 check payments.

23 11. As we arrived at the designated meeting room, I observed other workers, and
24 Corazon Quing, Malou Ernest and Rhodora Bernabe, known to us as HR staff,
25 were present at the May 13, 2004 meeting.

1 12. I did not see or hear Corazon Quing read or reading from any document or the
2 so-called "communication plan" as described and stated in Exhibit "A" attached to
3 the Declaration of Corazon Quing.

4 13. More specifically, I (we) were not told as stated by Corazon Quing that we the
5 workers, had the right to appeal our termination to the "Legal Department" of L&T
6 or to any one else.

7 14. Neither Malou Ernest, Corazon Quing nor any one else at the May 13, 2004
8 meeting, informed us, that the purpose of the so-called second check was "to cover
9 for 10 days pay in lieu of notice," as stated in paragraph 7, Declaration of Corazon
10 Quing. Additionally, L&T's own RIF policy required, as proposed RIF workers,
11 that I (we) "shall be given written notice of separation at least 15 days prior to the
12 effective date of separation, or severance pay in lieu of notice." (*See* Ex. "D," Jack
13 Torres' Deposition, and page 88, lines 6-8 and lines 20-24).

14 15. It was my honest belief that I and my co-workers were terminated on May 13,
15 2004 and that the termination was effective immediately on and from May 13, 2004,
16 because I (we) were told by HR staff at the May 13, 2004 meeting that today (May
17 13, 2004) was our last day of employment and they demanded that we give up and
18 turn in our company ID cards which were required and needed for company
19 employees to freely enter company premises; and more importantly, our I.D.s were
20 swipe-cards for the time-clocks so we could not clock in or out without them, in
21 addition to being required to "turn over any and all company properties in your
22 possession... on or before May 13, 2004" as stated in the Notice of Termination. *See*
23 Ex. "D," Defendant's Memorandum.

24 16. As a result I believed and felt that I was terminated and forced to stop working
25 on May 13, 2004, the same date that the Notice of Termination (dated May 12, 2004)

1 was given to me. Hence, I was not given the required prior notice of termination
2 and/or of the RIF.

3 17. I and the other plaintiffs worked a set work schedule and shift, and worked
4 Monday through Saturday, seven (7) hours a day, six (6) days a week, for a total of
5 forty-two (42) hours each work week, which included two (2) hour overtime each
6 work week while employed at L&T.

7 18. At the time of my termination, no one from L & T offered to assist me in
8 finding other employment or told me that they would or could assist me in getting
9 work with affiliate companies of L&T.

10
11 V.
12 EMOTIONAL DISTRESS

13 19. When I was hired by L&T in February, 2004, I was elated and so happy telling
14 my relatives and friends about my excitement at being employed with a big and
15 secure company. My happiness, however, was short-lived as I and my co-workers
16 were terminated by L&T after working for only two (2) months, more or less. L&T
17 never explained why I and the other Plaintiffs could not have been allowed to work
18 to the end of the contract and not renewed.

19 20. I became very emotionally upset and disturbed as a result of the termination of
20 my employment at L&T. The way L&T broke the news of termination to us, not
21 individually or privately, but *en masse* in front of all the other employees, resulted in
22 wailing, crying and shouting and pandemonium among the workers present; I and
23 the other workers present were crying and hugging each other and trying to console
24 one another.

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1 21. When I arrived home on May 13, 2004, I broke down and was crying
2 hysterically and uncontrollably and could not sleep. As a result, my demeanor and
3 routine changed. My anxiety increased, I constantly looked depressed and spent
4 increasingly more time calling my parents, friends and relatives especially in the
5 Philippines talking about my termination and I would then break into hysterical and
6 uncontrollable crying during these telephone conversations. For months, I was
7 fixated on the termination incident and became irritable, hostile and aggressive and
8 especially in my attitude and relationship with my boyfriend. It became the focus and
9 topic of conversations with relatives, friends and acquaintances. As a consequence,
10 my family and personal relationships were strained or destroyed.

11 22. As my severe emotional distress was mounting, I spent more and more time
12 watching T.V. until wee hours of the morning trying to fall asleep, but even then
13 when I came to bed, I was irritable and restless. I used to be, prior to the loss of my
14 job with L & T, loving and tender in bed with my partner, but that changed even
15 until now.

16 23. The sudden change in me negatively affected my relationship with my boyfriend.
17 Only the advice of well-meaning friends saved our relationship. I used to be very
18 patient and caring for my family before I was terminated. After the loss of my job
19 at L&T, I easily lose patience with and am quick to yell and shout at the kids and my
20 partner until now. I notice and feel that I am not the same person before and after
21 the loss of my job at L&T.

22 I declare under penalty of perjury that the foregoing is true and correct
23
24
25

that this declaration was executed this 26th day of September, 2006.

/s/ Eva Bernardino
Eva Bernardino
Declarant

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